

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14592 of 2024

1. Nand Kishore Mandal Son of Basant Mandal resident of Village - Bari Alalpur, Post Office - Raghapur, Police Station Parwatta, Block and Revenue Circle - Kharik, District - Bhagalpur
2. Krishnadev Mandal son of Late Bhujungi Mandal resident of Village - Bari Alalpur, Post Office - Raghapur, Police Station Parwatta, Block and Revenue Circle - Kharik, District - Bhagalpur
3. Bittu Kumar @ Bittu Mandal son of Balmukund Mandal resident of Village - Bari Alalpur, Post Office - Raghapur, Police Station Parwatta, Block and Revenue Circle - Kharik, District - Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Land Reform and Revenue Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Panchayati Raj Department, Government of Bihar, Patna
3. The Secretary, Rural Development Department, Government of Bihar, Patna
4. The Divisional Commissioner, Bhagalpur Division, Bhagalpur
5. The District Magistrate cum Collector, Bhagalpur
6. The Deputy Development Commissioner, Bhagalpur
7. The Additional District Magistrate cum Collector, Bhagalpur
8. The District Panchayati Raj Officer, Bhagalpur
9. The Sub Divisional Magistrate, Nawgachiya District Bhagalpur
10. The Land Reform Deputy Collector, Nawgachiya District Bhagalpur
11. The Circle Officer, Kharik ,District Bhagalpur
12. The Block Development Officer , Kharik, District Bhagalpur
13. The Station House Officer , Parnatta Police Station, Nawgachiya, District Bhagalpur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kundan Kumar, Advocate.
For the Respondent/s : Mr. Mahtab Alam, AC to SC-20.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 4 08-04-2025 1. Heard learned counsel for the petitioners and learned AC to SC-20.
2. The learned counsel for the petitioners submits that land pertaining to Thana No. 109, Khata No. 166, Plot No. 112,



Area-50 decimal at Mauza- Raghopur, Circle- Nawgachiya, District-Bhagalpur, was settled in the name of Krishna Dev Mandal and Wakil Mandal, both sons of Late Bhujungi Mandal, vide order dated 6-3-1972 passed by the then Circle Officer, Nawgachiya, District-Bhagalpur in Revenue Misc No. 3 (viii)/1971-72 on the basis of adverse possession, as would manifest from Annexure-P/1 to the writ application.

3. It is next submitted that after the land was settled, the Petitioner No. 2 and Wakil Mandal got the land mutated and accordingly Jamabandi Nos. 482 and 483 were created, as would manifest from Annexure-P/2 to the writ application. It is next submitted that the rent with respect to the land was being accepted by the State authorities and all of a sudden in the year 2016, the authorities stopped accepting the rent, accordingly the petitioners filed Title Suit No. 27 of 2016 in the court of learned Sub-Judge-1, Nawgachiya, District, Bhagalpur, with a prayer for declaration of their right, title and interest and further for a declaration that incorrect entry in the record of rights with respect to the suit land (i.e. the land in dispute in the instant case) is not binding upon the plaintiffs, i.e. the petitioners herein, hence the defendants be restrained from interfering in the possession of the plaintiffs/petitioners (herein) from making



any type of construction upon the suit land by granting temporary injunction against the defendants. It is submitted that in the T.S. No.27/2016, the Collector, Bhagalpur along with the C.O., Nawgachiya have been impleaded as party defendants.

4. The learned counsel for the petitioners next submits that the application seeking temporary injunction against the defendants was dismissed by learned Sub-judge-1, Nawgachiya, vide order dated 9-1-2024 (Annexure-P/6), accordingly the petitioners filed Miscellaneous Appeal No. 6 of 2024 (Annexure-P/7) before the learned District and Sessions Judge, Bhagalpur on 22-2-2024 for setting aside the order dated 9-1-2024 passed in Title Suit No. 27 of 2016 by the learned sub-Judge-1, Nawgachiya, refusing temporary injunction.

5. It is next submitted that the Miscellaneous Appeal No. 6 of 2024 is pending adjudication before the learned District Judge, Bhagalpur. It is further submitted that what is not in dispute rather stands admitted is that the land in dispute was settled with the ancestors of the petitioners by the Circle Officer, Nawgachiya, based on adverse possession and the rent of the land was being accepted, but in the year 2016 all of a sudden the authorities stopped accepting the rent, which led to filing of the aforesaid title suit.



6. It is next submitted that during pendency of the title suit and the miscellaneous appeal, as recorded hereinabove, the authorities proceeded with construction of waste processing unit under Lohia Swachhta Mission by the Rural Development Department, Government of Bihar, upon the land in dispute in the instant case, as such, the instant writ application has been filed for a direction upon the respondent authorities to stop the construction of waste processing unit over the land in dispute. It is further submitted that the petitioners have also sought quashing of the order dated 12-7-2024 contained in Memo No. 598, issued by the Sub-Divisional Magistrate, Nawgachiya, District-Bhagalpur, whereby the S.D.M, without issuing any notice to the petitioners, held that they are making hindrance in construction of waste processing unit in Raghapur Panchayat and thus appointed the Block Panchayati Raj Officer as Magistrate for ensuring construction of the waste processing unit within Raghapur Panchayat, without giving description of the land.

7. It is submitted that the case was taken up on 07.03.2025 and this Court recorded that the contents of the counter affidavit filed on behalf of the State is cryptic, as such, the District Magistrate, Bhagalpur was directed to file a



supplementary counter affidavit duly sworn by him.

8. It is further submitted that miscellaneous appeal of the petitioners is pending adjudication in the court of learned District Judge, Bhagalpur, and as such the authorities, taking advantage of the fact that the temporary injunction application of the petitioners filed under Order 39, Rule 1 and 2 of the CPC has been rejected, hence are proceeding with the construction of the waste processing unit on the land of the petitioners, without appreciating the fact that appeal filed by the petitioners against the order of learned Sub-Judge is yet to be adjudicated.

9. It is also submitted that till date the jamabandi created in the name of the petitioner No. 2 and Wakil Mandal has not been cancelled and is in existence. It is next submitted that petitioners have no notice that as to whether any jamabandi cancellation case has been filed before the ADM, Bhagalpur under Section 9 of the Mutation Act or not, as they have till date not received any notice in that regard.

10. The learned State counsel submits that a supplementary counter-affidavit on behalf of the District Magistrate, Bhagalpur has been filed, wherein specific plea has been taken that waste processing unit is not being constructed on the land in dispute, further at Para-15 of the supplementary



counter affidavit, it has been pleaded that Jambandi No.482 and 483 does not stand in the name of the petitioners rather the same stands in the name of one Bhawani Das Mukherjee, apart from it, Jamabandi No. 483 is not in the name of the petitioner Nand Kishore Mandal as such steps are being taken for cancellation of the said jamabandi. It is further submitted that at Para-20, it has been specifically pleaded that the averments made at para-4 of the writ application that the land was settled with the ancestors of the petitioners based on adverse possession is not true and the same is denied, as the land in question was not settled in favour of the petitioners.

11. The learned counsel appearing on behalf of the petitioners rebuts the said submission of the learned counsel appearing on behalf of the State and submits that as far as the settlement of the land in dispute is concerned, with regard to that only a bald statement has been made at Para- 20 of the counter affidavit. It is further submitted that no doubt the land belongs to the State of Bihar but then it was settled with the petitioners by the Circle Officer, Nawgachiya as recorded hereinabove but then the land continued to remain in the name of the State of Bihar despite Jamabandi being created in favour of the petitioners. It is also submitted that pleading made in the



supplementary counter affidavit at Para-15 is also denied that Jamabandi No.482 and 483 does not stand in the name of the petitioners. It is next submitted that this was the reason why the petitioners filed the aforesaid title suit in which an application seeking injunction was also filed but then the same came to be rejected against which miscellaneous appeal is pending adjudication.

12. The learned counsel for the petitioners next submits that in the counter affidavit a plea has been taken that waste processing unit is not being constructed on the land in dispute rather is being constructed on a different plot but then the petitioners recently came to know that a notice inviting Re-Tender no. 06/SBD/2024-25 dated 13.07.2024 was issued by the Executive Engineer, Local Area Engineering Organization, Work Division-2, Nawgachiya, District-Bhagalpur for construction of Panchayat Sarkar Bhawan in Raghapur panchayat under Kharik block, Bhagalpur over land pertaining to cadestral survey Thana No.109, Khata No.166, Plot No.112, area 50 decimal/as per Revisional survey Thana No.109, Khata No.827, Plot No.577, area 50 decimal. It is submitted that the land belongs to the petitioners and is in the name of Krishna Dev Mandal and Wakil Mandal as recorded hereinabove. It is



next submitted that since recently the petitioners came to know about the said notice inviting re-tender, as such, I.A. No.01/2025 has been filed, seeking quashing of the aforesaid notice dated 13.07.2024.

13. The learned counsel appearing on behalf of the State at this stage submits that the petitioners are claiming land based on adverse possession settled by the Circle Officer, Nawgachiya, the Collector, Bhagalpur is denying the said settlement and certain disputed question of facts have also arisen in view of the pleadings made in the supplementary counter affidavit, as such, it is submitted that since Miscellaneous Appeal No.6/2024 is pending adjudication in the Court of learned District Judge, Bhagalpur against the order dated 09.01.2024 in T.S. No.27/2016 passed by the learned Sub-Judge-I, Nawgachiya refusing temporary injunction as such the writ application can be disposed of with a direction to the learned District Judge, Bhagalpur to adjudicate Miscellaneous Appeal No.6/2024 within a time frame, the said submission of the learned counsel appearing on behalf of the State is not disputed by the learned counsel appearing on behalf of the petitioners rather it is submitted that the notice inviting re-tender shall also be brought to the notice of the learned District Judge,



Bhagalpur in Miscellaneous Appeal No.6/2024.

14. After hearing the learned counsel for the parties, the writ application is disposed of with a direction to the learned District Judge, Bhagalpur to consider and dispose of the Miscellaneous Appeal No.6/2024 within a time frame, preferably within a period of three months from the date of receipt/production of a copy of this order.

15. It is made clear that Court has not expressed any opinion on merits of the case.

16. It is also made clear that the authorities will not disturb the possession of the petitioners over the land for next three months from today but if Misc. Appeal No.6/2024 is decided prior to the period of 3 months from today, in that event the present interim protection shall come to an end and it is expected that the authorities will co-operate in disposal of Miscellaneous Appeal No.6/2024 pending adjudication before the learned District Judge, Bhagalpur.

17. Let a copy of this order be sent to the learned District Judge, Bhagalpur for his perusal.

(Satyavrat Verma, J)

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